

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TIMOTHY NELSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:05-CV-1695 CDP
)	
DAVID M. SWIRE,)	
)	
Defendant.)	

ORDER AND MEMORANDUM

This matter is before the Court upon plaintiff Timothy Nelson's request for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a).

Local Rule 2.05(A) provides that "[a]n application to proceed in forma pauperis shall be accompanied by a statement of the applicant's financial information set forth on a form provided by the Court." Although plaintiff has submitted a motion to proceed in forma pauperis [Doc. #2], the motion was not submitted on this Court's form "Motion to Proceed without Prepayment of Costs" and was not accompanied by the court-provided "Affidavit in Support Thereof (Financial Affidavit - CJA Form 23)." As such, the Court is unable to determine, at this time, whether plaintiff is financially unable to pay the filing fee. Because plaintiff is proceeding pro se, the Court will grant him additional time in which to submit the requisite forms, as set forth below.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the Clerk of Court shall provide plaintiff with the court forms entitled "Motion to Proceed without Prepayment of Costs" and "Financial Affidavit - CJA23."

IT IS FURTHER ORDERED that plaintiff shall have twenty (20) days from the date of this Order to pay the statutory filing fee of \$250.00, or to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23.”

IT IS FURTHER ORDERED that if, within twenty (20) days from the date of this Order, plaintiff fails to pay the filing fee or to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the case shall be dismissed, without prejudice.

IT IS FURTHER ORDERED that if plaintiff timely submits a “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the Clerk shall cause this case to be resubmitted to the Court for review under 28 U.S.C. § 1915.¹

Dated this 26th day of October, 2005.


UNITED STATES DISTRICT JUDGE

¹If plaintiff pays the filing fee, he will be responsible for serving the summons and complaint upon the defendant. See Fed. R. Civ. P. 4(d). Service must be made within 120 days of the filing of the complaint (in the instant case, within 120 days of the payment of the filing fee). See Fed. R. Civ. P. 4(m). Plaintiff is advised that he may seek guidance on serving the defendant from the Office of the Clerk.